



Sales and Use Tax Exemption for General Aviation Aircraft

This memorandum explains recently enacted legislation that amends the Sales and Use Tax Law to provide an exemption from sales and use tax for general aviation aircraft and for machinery or equipment to be installed on general aviation aircraft.

Effective September 1, 2015, Part TT of Chapter 59 of the Laws of 2015 amends the Tax Law to provide an exemption from state and local sales and use tax (sales tax) for general aviation aircraft and for machinery or equipment to be installed on general aviation aircraft.¹

The new law defines *general aviation aircraft* as an aircraft that is used in civil aviation.

However, general aviation aircraft does not include:

- a commercial aircraft (as defined in section 1101(b)(17) of the Tax Law),
- a military aircraft, or
- an unmanned aerial vehicle or drone.

Application of the exemption

For the sale (including a lease or rental) of a general aviation aircraft, the new exemption applies to the receipts for:

- the aircraft itself;
- other property that is affixed to the aircraft for its equipping, such as furniture, fixtures, built-in appliances, window coverings, climate control systems, or entertainment systems; and
- property that the aircraft is outfitted with at the time of sale that is necessary for its normal operation, such as avionics, radios, weather radar systems, and navigation and emergency lighting.

However, any accessories added to the purchase price of the aircraft, including:

- items of décor (paintings or other artwork);
- tableware, glassware, or cookware;
- small appliances;
- linens, pillows, or towels; or
- other ancillary property,

¹ The new exemption discussed in this memorandum is in addition to the existing exemption related to commercial aircraft (see section 1115(a)(21) of the Tax Law) and to the repair and maintenance of aircraft (see [TSB-M-09\(18\)S](#), *Sales and Use Tax Exemption Related to the Repair and Maintenance of Aircraft Made Permanent*).

are **not exempt**. Such items remain fully taxable and should be invoiced separately from the price of the aircraft itself.

Machinery or equipment that is installed on a general aviation aircraft subsequent to its purchase and that is necessary for:

- the aircraft's equipping, or
- the aircraft's normal operation,

is also exempt from sales tax. Use [Form ST-121](#), *Exempt Use Certificate*, to claim the exemption by marking an **X** in the *Other* box and entering *Machinery or equipment to be installed on exempt general aviation aircraft* in the space provided. Again, the exemption for machinery and equipment **does not include** accessories or other ancillary property, as described above.

Effective date and transitional rules

The new exemption for general aviation aircraft and machinery or equipment to be installed on general aviation aircraft applies to sales (including leases subject to the accelerated tax payment provisions of section 1111(i) of the Tax Law) or uses occurring on or after September 1, 2015. The exemption also applies to sales made under a contract entered into prior to September 1, 2015, provided that the purchaser takes delivery of the aircraft or the machinery or equipment on or after September 1, 2015.

Example: *On August 5, 2015, Mr. X enters into a contract to purchase a general aviation aircraft with a vendor in New York State. He pays for the aircraft in full on August 22, 2015, but does not take delivery of the aircraft until September 2, 2015. The new exemption still applies because Mr. X is taking delivery of the aircraft after September 1, 2015, even though he entered into the contract and made full payment on the aircraft prior to September 1, 2015.*

Example: *On June 1, 2015, Mr. Y enters into a 60-month lease and takes delivery in New York State of a general aviation aircraft that seats less than 20 passengers and has a maximum payload capacity of less than 6,000 pounds. Since the lease of the aircraft is subject to the accelerated tax payment provisions of section 1111(i), sales tax is due at the inception of the lease on the total amount of the lease payments for the entire term of the lease.*

Additionally, even though the term of the lease extends beyond the September 1, 2015, effective date of the new exemption, the taxable lease transaction occurred on June 1, 2015, and the lease payments for the entire term of the lease remain subject to sales tax and no refund is allowed.

Example: *On September 4, 2015, Mr. Z enters into a 72-month lease and takes delivery in New York State of a general aviation aircraft that seats less than 20 passengers and has a maximum payload capacity of less than 6,000 pounds. Since the lease transaction occurred after September 1, 2015, the lease payments for the entire term of the lease are exempt from sales tax.*

Example: *On July 1, 2015, Mr. A enters into a 48-month lease and takes delivery in New York State of a general aviation aircraft that seats 35 passengers and has a maximum payload capacity greater than 6,000 pounds. The accelerated tax payment provisions of section 1111(i) do not apply to this lease transaction. Therefore, the lease payments for the months of July and August 2015 are subject to sales tax and the lease payments for the remainder of the lease term after September 1, 2015, are exempt from sales tax.*

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